

In the Matter of)
)
Revision of the Commission's Rules) CC Docket No. 94-102
To Ensure Compatibility With)
Enhanced 911 Emergency Calling)
Systems)
)
Phase II Compliance Deadlines for)
Non-Nationwide CMRS Carriers)

REPLY TO COMMENTS OF NENA, APCO AND NASNA

1. The Public Safety Organizations take no position on the merits of Five Star's Stay Request, but instead mistakenly characterize it as "woefully tardy" and request that the matter be referred to the Enforcement Bureau so that Five Star can be compelled to explain the delay in filing the Stay Request

(Comments, pg. 2).

2. In point of fact and as the Public Safety Organizations should know, Five Star's Request is not tardy and, accordingly, no basis exists for a referral to the Enforcement Bureau. As Five Star's previous filings in this docket demonstrate, Five Star intends to implement a network-based Phase II Automatic Location Identification ("ALI") solution;¹ and has not yet received a Public Safety Answering Point ("PSAP") request for E-911 Phase II ALI service.² In its Stay Request, Five Star, in reliance upon the Commission's recent Order to Stay, FCC 02-210, released July 26, 2002 ("Stay Order"), requested a temporary stay of the Rule 20.18(f) requirements "out of an abundance of caution because, in view of the lack of availability of Phase II E-911 ALI equipment to Tier III carriers such as Five Star, Five Star will be unable to comply with any future PSAP Phase II request prior to September 1, 2003, at the earliest." "Amended Request for Stay," filed September 4, 2002 at pg 3; "Request for Stay," filed August 15, 2002, at pp. 2-3.

3. Absent a PSAP request for Phase II E-911 ALI service, Five Star is not even under an obligation to request a stay because, until such an event occurs, there is no regulatory requirement from

¹ See "Amended Request for Temporary Stay," filed September 4, 2002, pp. 1 and 2; "Request for Temporary Stay," filed August 15, 2002, pp. 1 and 2; and "E-911 Phase II Status Report," filed November 9, 2000 at pg. 2.

² See "Amended Request for Temporary Stay," filed September 4, 2002 at pg. 3; "Request for Temporary Stay," filed August 15, 2002 at pg. 2.

which Five Star needs relief. Under Section 20.18(f) of the Rules, actual deployment of Phase II service is not triggered until a valid PSAP request is received; and, even then, compliance is not required until the date occurring six months following the date of the request. Indeed, in establishing the November 30, 2001 deadline for small and mid-sized wireless carriers subject to the E-911 Rules to file requests for relief, the Commission emphasized that such requests had to be filed only "if necessary" and only if the carriers "need to do so."³ In a follow-up Public Notice providing guidance for the filing of the requests, the Wireless Telecommunications Bureau specifically stated that, for example, "[c]arriers who plan to deploy a network-based ALI solution but who have not received a PSAP request, and therefore who are not subject to any Phase II obligations, need not file requests for relief during this window."⁴

4. Accordingly, since Five Star has not received a PSAP request for Phase II E-911 ALI service, its Stay Request is in no way untimely. The Stay Request is timely-filed as a matter of law, and as a consequence, no referral to the Enforcement Bureau is warranted.

5. Even assuming for purposes of argument that Five Star's

³ See Public Notice, entitled "Commission Establishes Schedule For E911 Phase II Requests By Small And Mid-Sized Wireless Carriers," FCC 01-302, dated October 12, 2001 at pg. 1.

⁴ See Public Notice, entitled "Wireless Telecommunications Bureau Provides Guidance On Filings By Small And Mid-Sized Carriers Seeking Relief From Wireless E911 Phase II Automatic Location Identification Rules," Mimeo DA 01-2459, dated October 19, 2001 at pg. 2 n. 7.

Stay Request was untimely-filed (which it most assuredly was not), no referral to the Enforcement Bureau would be warranted in any event. In the Stay Order, the Commission, on its own motion, chose "to grant relief to all carriers filing a waiver request, including late-filed waivers." Stay Order, Paragraph No. 10, n. 21 (emphasis added). Yet none of the late filers were referred to the Enforcement Bureau for any purpose.

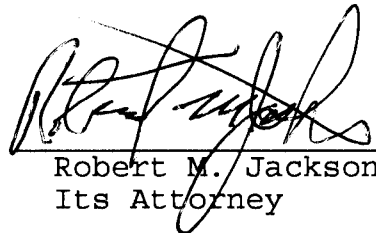
WHEREFORE, Five Star requests that the relief requested in the Comments be denied; and that its Stay Request be granted.

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Respectfully submitted,
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By:



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CERTIFICATE OF SERVICE

I hereby certify that I am an attorney with the law offices of Blooston, Mordkofsky, Dickens, Duffy & Prendergast, and that on September 23, 2002 I caused to be mailed by first class United States mail, postage prepaid, a copy of the foregoing "**Reply to Comments of NENA, APCO and NASNA**" to the following:

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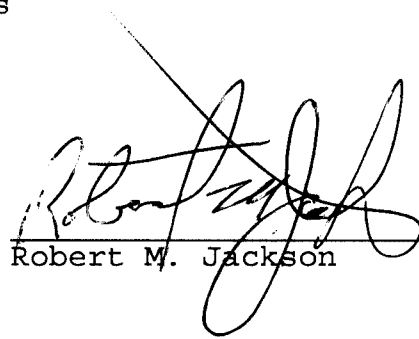
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